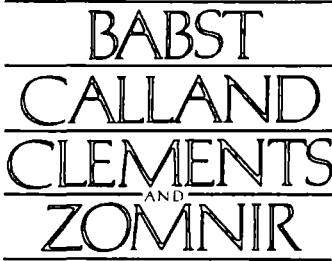


1190915 - R8 SDMS



February 7, 2011

TERRANCE GILEO FAYE  
Of Counsel  
tfaye@westol.com

U.S. Environmental Protection Agency, Region 8  
Attn: Laurianne Jackson, Enforcement Attorney  
Legal Enforcement Program, 8ENF-L  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

Via Overnight Mail and  
E-mail Transmittal

**Re: Second Request for Information Pursuant to Section 104 (e) of CERCLA  
For the Carpenter Snow Creek Site (the Site) (SSID #08-9X)  
Cascade County, Montana**

Dear Ms. Jackson:

On December 29, 2010, Blue Tee Corp. (Blue Tee or the Respondent) received the above-referenced Second Request for Information Pursuant to Section 104 (e) of CERCLA relative to the Carpenter Snow Creek Site located in Cascade County, Montana (hereinafter the Request). Based upon two extensions of time granted by you, Blue Tee, successor to the American Zinc Lead and Smelting Company (AZLSC), herein timely responds to the Request (hereinafter the Response).

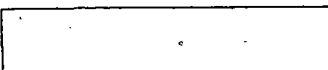
**GENERAL RESPONSE:**

This information is provided by Special Counsel to Blue Tee, Terrance Gileo Faye, based upon a review of documents reasonably believed to contain accurate historic information about the Respondent, the Silver Dyke Mining Company (SDMC), and other referenced companies. This Response is supplemental to the February 22, 2010 Response to the first Request of the Environmental Protection Agency (EPA) for Information Pursuant to Section 104 (e) of CERCLA and does not herein repeat previously supplied information. Please refer to the previous response for that information.

**HISTORIC DOCUMENTS:**

In responding to this Request, Special Counsel, Terrance Gileo Faye, searched for and

1 North Maple Avenue  
Greensburg, Pennsylvania 15601  
724 / 837-6221  
Fax 724 / 837-0971



reviewed archived, historic documents for Respondent and the above-referenced companies, including the SDMC. The archived, historic documents are catalogued and maintained by Ms. Faye. Documents responsive to each request have been scanned and downloaded to a CD. The CD is provided with this narrative Response.

To the extent that Respondent has first-hand knowledge of information needed for a response, a narrative response is provided. However, to the extent that information for a response depends upon a reading and interpretation of the documents provided, no second-hand analysis will be provided. The documents will, at this point, speak for themselves.

Current operational records of Respondent have not been provided as they are not relevant to the time period or activities under review. Blue Tee objects to the production and release of current operational documents as such a production would be overly broad, irrelevant, unduly burdensome and non-productive.

### **SPECIFIC QUESTIONS:**

For your convenience in reviewing this Response, the text of each specific information request has been placed above the response. In addition, in this Response, Blue Tee has utilized those definitions of certain words and terms set forth in the Information Request at pages 4-5.

### **QUESTIONS**

1. *Identify the person(s) answering these Questions on behalf of Respondent.*

### **RESPONSE:**

The person answering these Questions on behalf of Respondent is Terrance Gileo Faye, Special Counsel to Blue Tee.

2. *For each and every Question contained herein, identify all persons consulted in the preparation of the answer.*

### **RESPONSE:**

In addition to Terrance Gileo Faye, the only other person consulted was David Alldian, Vice President of Blue Tee. Mr. Alldian has been an officer with Blue Tee since its formation. Mr. Alldian advised that he had no information concerning the Site. There are no known, living SDMC employees.

3. *For each and every Question contained herein, identify documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the Question and provide accurate copies of all such documents.*

**RESPONSE:**

Please refer to the **Historic Documents** section of this Response. Respondent also incorporates herein the February 22, 2010 General Response. Although responsive documents have been provided, Respondent cannot guarantee that all requested documents are contained within the historic, archived documents. Therefore, this response may be incomplete.

4. *Provide copies of all the following financial documents produced, generated or otherwise prepared by or on behalf of Silver Dyke Mining Company (SDMC) and American Zinc, Lead, and Smelting Company (AZLSC) for the time period from 1922-1948. Include all such financial documents for AZLSC separately as well as any consolidated financial information.*
  - a. *Any certified and uncertified financial statements;*
  - b. *Any auditor statements contained in any monthly, quarterly or annual report prepared in the normal course of business;*
  - c. *Any financial information provided to officers, directors or shareholders of AZLSC in the normal course of business;*
  - d. *Any financial information or reports submitted to the U.S. Internal Revenue Service, including corporate tax returns or estimated tax payments; and*
  - e. *Any balance sheets or income statements.*

**RESPONSE:**

All responsive documents located as to SDMC have been produced. AZLSC's operations were unrelated to SDMC. To the extent that AZLSC had financial transactions with SDMC, those transactions are described in the responsive SDMC documents. Respondent objects to this request solely as it relates to AZLSC as the request is overly-broad, irrelevant and unduly burdensome.

5. *In its February 22, 2010 response to an earlier EPA Information Request Letter, Blue Tee provided a Decree entered in April 1947 stating that there "are no assets or liabilities" for SDMC at the time of dissolution. Describe what happened to SDMC's assets and liabilities prior to this decree being entered.*
  - a. *Identify all assets of SDMC in 1945-1947.*
  - b. *List all liabilities of SDMC in 1945-1947.*
  - c. *Provide any transfer documents, corporate minutes, financial statements or other documentation that describes the winding down of SDMC. In particular, provide documentation of what happened to SDMC's assets and liabilities prior to dissolution.*
  - d. *Describe whether AZLSC either expressly or impliedly assumed SDMC's liabilities. Provide documentation referencing or related to the same.*
  - e. *Describe whether AZLSC acquired any interest in SDMC? Provide documentation*

*related to the same.*

**RESPONSE:**

Responsive documents relevant to this request have been provided, but may be incomplete. Respondent has no further information on these subjects. AZLSC neither expressly nor impliedly assumed SDMC's liabilities. Although AZLSC loaned money to SDMC, all transactions were at arms-length and conducted following appropriate formal corporate protocol.

6. *Identify all employees, supervisors, managers, directors, officers and shareholders for SDMC that had any connection to activities at the Site during the time period from 1922 through 1948. Describe each individual's respective role(s) at the Site including, but not limited to, Howard I. Young, W.E. Wambler, W.N. Payne, D.I. Hayes, Henry A. Wentworth, and William A. Ogg. Provide copies of all documents that relate to or evidence such connection.*

**RESPONSE:**

Responsive documents relevant to this request have been provided, but may be incomplete. Titles for some of the named individuals are found within the documentation. Respondent has no further information on these subjects.

7. *For each individual identified in response to Question 6 above, provide the following information:*
  - a. *Identify the bank account(s) or other source(s) of funding that were used to pay the salary or wages of each individual and identify the time period during which such payments were made;*
  - b. *Identify each individual's job title, the responsibilities associated with such job, and dates of such job responsibilities;*
  - c. *Identify each individual's responsibilities at or regarding the Site and applicable dates; and*
  - d. *Provide copies of all documents relating to or substantiating the response to this Question 7 and any other annual reports or corporate records related to the same.*

**RESPONSE:**

Any responsive documents relevant to this request have been provided, but may be incomplete. Respondent has no further information on these subjects.

8. *Provide copies of all minutes of board meetings and other management meetings for SDMC during the time period from 1922 through 1948.*

**RESPONSE:**

The SDMC Corporate Minute Books have been scanned in their entirety. Any additional responsive documents have been provided, but may be incomplete. Respondent has no further information on these subjects.

9. *Identify all employees, supervisors, managers, directors, officers and shareholders for AZLSC that had any connection to activities at the Site during the time period from 1922 through 1948. Describe each individual's respective role(s) at the Site including, but not limited to, Howard Young, W.E. Wambler, Harry S. Kimball, W.N. Payne, Henry A. Wentworth, J.T. Travers, and William A. Ogg. Provide copies of all documents that relate to or evidence such connection.*

**RESPONSE:**

Any responsive documents have been provided, but may be incomplete. Respondent has no further information on these subjects. Some of the information may be gleaned from the documents provided.

10. *For each individual identified in response to Question 9 above, provide the following information:*
- a. *Identify the bank account(s) or other source(s) of funding that were used to pay the salary or wages of each individual and identify the time period during which such payments were made;*
  - b. *Identify each individual's job title, the responsibilities associated with such job, and dates of such job responsibilities;*
  - c. *Identify each individual's responsibilities at or regarding the Site and applicable dates; and*
  - d. *Provide copies of all documents relating to or substantiating the response to this Question 10 and any other annual reports or corporate records related to the same.*

**RESPONSE:**

Any responsive documents have been provided, but may be incomplete. Respondent has no further information on these subjects. Some of the information may be gleaned from the documents provided.

11. *Provide copies of all minutes of board meetings and other management meetings for AZLSC during the time period from June 1923 through April 1948.*

**RESPONSE:**

All responsive documents located as to SDMC have been produced. AZLSC's operations were unrelated to SDMC. To the extent that AZLSC had an association with SDMC, those transactions are described in the responsive SDMC documents. Respondent objects to this request solely as it relates to AZLSC as being overly-broad, irrelevant and unduly burdensome.

12. *Did SDMC ever notify or seek approval from AZLSC when making expenditures related to the Site? If so, identify the individual(s) involved and provide copies of all documents relating to or evidencing such notification or approval.*

**RESPONSE:**

To the extent, if any, there is information to answer this request, it may be gleaned from the responsive documents provided. Respondent has no further information on these subjects

13. *Did AZLSC participate in any manner including, but not limited to, providing instruction, assistance, or guidance in the business activities of SDMC relating to the Site? If so, identify the individual(s) involved and provide copies of all documents relating to or evidencing such participation.*

**RESPONSE:**

To the extent, if any, there is information to answer this request, it may be gleaned from the responsive documents provided. Respondent has no further information on these subjects.

14. *Did AZLSC ever loan or otherwise provide funding, provide a guarantee, or provide other resources to SDMC relating to the Site? If so, identify the date of each such transaction, the amounts involved, the individuals(s) who approved each such transaction, the purpose of each such transaction and provide copies of all documents relating to or evidencing such transaction. In its February 22, 2010 response to EPA's earlier Information Request, Blue Tee provided that "AZLSC loaned money to Silver Dyke in exchange for stock, but the loan was repaid and the stock returned." Provide documents evidencing this transaction.*

**RESPONSE:**

Responsive documents regarding this matter have been provided. To the extent, if any, there is information to answer this request, it may be gleaned from the responsive documents provided. Respondent has no further information on these subjects.

15. *Did AZLSC and SDMC ever share an office at or near the Site including, but not limited to, the office located at 1600 Paul Brown Building, St. Louis, Missouri? If so, identify the terms and duration of such arrangement and any benefit the entities received from such an arrangement. Provide copies of all documents relating to or evidencing such arrangement.*

**RESPONSE:**

Based upon available records, there is no information to suggest that AZLSC and SDMC ever shared office space. To the extent, if any, there is information to answer this request, it may be gleaned from the responsive documents provided.

16. *Did AZLSC and SDMC ever loan, lease, or rent any office space, furnishings, fixtures, equipment, personal property, or real property at or near the Site? If so, identify the terms and duration of such arrangement, and any benefit the entities received from such an arrangement. Provide copies of all documents relating to or evidencing such arrangement.*

**RESPONSE:**

To the extent, if any, there is information to answer this request, it may be gleaned from the responsive documents provided.

17. *Describe and provide copies of any agreements dealing with the sale of concentrate from the mining and milling operations of SDMC and/or AZLSC, in the Carpenter and Snow Creek areas, for purchase by a Smelting Company including, but not limited to, those agreements identified in SDMC's meeting minutes dated April 23, 1923.*

**RESPONSE:**

To the extent, if any, there is information to answer this request, it may be gleaned from the responsive documents provided.

18. *Provide copies of all transactions involving mining claims along Carpenter Creek between 1925 -1926.*

**RESPONSE:**

To the extent, if any, there is information to answer this request, it may be gleaned from the responsive documents provided.

19. *Identify all individuals who, on behalf of SDMC and/or AZLSC, were responsible at the Site for the following:*

- a. *Choosing and acquiring rights to conduct operations at the Site (including negotiating and drafting lease agreements and/or purchasing property);*

- b. *Choosing particular methods for exploratory mining activities at the Site;*
- c. *Selection of contractors for design, engineering, construction, and operation of exploratory mining activities at the Site;*
- d. *Selection of management personnel at the Site;*
- e. *Applying for permits related to the Site;*
- f. *Supervision of staff at the Site;*
- g. *Development of budgets for Site operations;*
- h. *Development of schedules for Site operations;*
- i. *Arranging for financing to conduct activities at the Site;*
- j. *Selection of methods and locations for disposal of waste materials at the Site;*  
*and*
- k. *Monitoring of environmental conditions at the Site.*

**RESPONSE:**

To the extent, if any, there is information to answer this request, it may be gleaned from the responsive documents provided.

20. *If not otherwise provided in detail in the documents produced in response to the questions above, provide all information, including documents, relating to AZLSC's participation in the management of SDMC and/or the operations at the Silver Dyke Mine, or any other agreement, formal or informal, entered into by AZLSC that pertained to Site ownership, operations, or reclamation or other activities at the Site.*

**RESPONSE:**

To the extent, if any, there is information to answer this request, it may be gleaned from the responsive documents provided.

21. *Is Blue Tee the successor to liabilities incurred by AZLSC in connection with the Site, including those under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. If your answer is "no," please explain in detail and provide documentation supporting your contention.*

**RESPONSE:**

No.

Blue Tee is the corporate successor to AZLSC. Blue Tee would only have successor liability for this Site to the extent that AZLSC has any liability for the Site. AZLSC did not own or operate on property at the Site. AZLSC is not the successor to the SDMC, nor is there any basis to pierce the corporate veil between the companies and hold AZLSC liable for the actions of SDMC. These were two independent companies which operated independently and observed appropriate formal corporate protocol.

22. *Provide copies of all casualty, liability and/or pollution insurance policies, and any other insurance contracts whereby the Respondent or any predecessor of Respondent is insured for claims arising during the time period from 1922 through 1929 including, but not limited to, comprehensive general liability, primary, umbrella and excess policies, as well as any environmental impairment liability or pollution legal liability insurance.*

**RESPONSE:**

Blue Tee objects to this request to the extent that it seeks information that is subject to and protected by any applicable privilege or confidentiality agreement. At one time, Blue Tee had insurance contracts for environmental liabilities. Coverage under the policies was assigned to Gold Fields Mining Company, now Gold Fields Mining, LLC, (Gold Fields) in approximately 1990 and suit was filed in New York State Court.


Copies of the policies have not been provided at this time, as the coverage issue is moot. While Blue Tee/Gold Fields may have had some insurance coverage for environmental matters, including the Carpenter Snow Creek Site, that coverage has almost certainly been exhausted and any liability thereunder settled pursuant to a series of confidential settlements entered into between Gold Fields and the insurance companies in the late 1990s. The New York State Court action was subsequently dismissed.

**CONCLUSION:**

Despite a comprehensive document review, very little information about this Site has been located. If additional information or documents responsive to this Request become known or available to Respondent after this submission, Respondent will supplement this Response within thirty (30) days of discovering such responsive information. If after submitting this Response, Respondent discovers or believes that any portion of this submission is false or misrepresents the truth, Respondent will notify you of this fact as soon as possible and provide you with a corrected Response.

If you have any questions concerning this Response, please do not hesitate to contact me at the address and/or phone number listed above or at the above-referenced e-mail address.

Sincerely,



Terrance Gileo Faye  
Special Counsel to Blue Tee Corp.

TGF/ega  
Enclosures

NOTARIZED CERTIFICATE

I hereby state: having been duly sworn and being of legal age,

1. I am the person authorized by Blue Tee Corp. to respond to the Environmental Protection Agency's (EPA's) request for information concerning the Carpenter Snow Creek NPL Site located in Cascade County, Montana.
2. I have made a complete and thorough review of all documents, information, and sources relevant to the request.
3. I hereby certify that the attached response to EPA's Information Request is complete and contains all information and documents responsive to the request.

Terrance Gileo Faye 2/7/11  
(Signature) Date

TERENCE GILEO FAYE  
(Name, Title) SPECIAL COUNSEL

(SEAL)

Subscribed and sworn to me

This 7<sup>th</sup> day of February, 2011

Notary Public

My Commission Expires.

May 15, 2013

My address is

645 E. Pittsburgh St  
Greensburg PA 15601

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Bonnie Sanderbeck, Notary Public  
City of Greensburg, Westmoreland County  
My Commission Expires May 15, 2013  
Member, Pennsylvania Association of Notaries